

Expanding the Right to Vote to Non-Citizens

Conversation with Jessica Maravilla (Policy Director, ACLU Oregon), Ricardo Luján-Valerio (Policy Director, Office of Carmen Rubio), and MCCRC Committee Members Jude Perez and Samantha Gladu

- This has been done before and there's a lot of data to validate this happening
- There are good mechanisms in place to make a feasible, sound, system
- Have learned a lot of lessons from other jurisdictions
 - Not uniform in approach; all three are valid from an equity lens; the one that defines residency is the most expansive, inclusive, and broad -
 - **Some define resident as living, or having a domicile**
 - Some do legal permanent residents
 - Some are in the middle: lawful presence in the US (LPRs, DACA, student visa holders, TPS holders)
- In Oregon, over \$100M taxes come from undocumented people
- In a political lens, it helps bring people along when we talk about a section of folks who have been recognized by the government as able to be here
 - For legal residents: easier for moderates to get behind, easy path to citizenship - wait 3-5 years depending on how you got LPR and you're most likely going to become a resident
- We've had a state effort led by immigrant rights organizations. Multiple impacts in that conversation: when we looked at the state level, there were limitations on what we could do in statute v constitutional amendment. Legislative Counsel said we don't have jurisdiction over cities and counties that have home rule - and to impose this, it would have to be done by constitutional amendment. The one area where state statute provisions open up the realm of possibility is school districts, MESDs, and water districts.
- Will voting impact future citizenship?
 - Causa did a lot of research on this
 - L&C law school did some research on this - Aliza Kaplan
 - It is much like voting rights: need a system in place to educate folks
 - It would probably mean two brackets of information with ballots
 - We hit a big issue with this on the state level - the fiscal
 - How much would it take to change these systems to ensure privacy and not impact citizenship
 - Even for school districts, we needed to make sure that people knew what they could vote for and didn't end up voting for things that they could not
 - Voting is one of the biggest reasons why citizenship is denied: to appeal, people have to prove they didn't know what they were doing and that's really hard
 - Need to have lead time for implementation to consult with other jurisdictions and local community to charter path forward that makes it very clear to community

members which ballot they're using

- Implementation
 - SOS and county clerk would have to apply a high degree of creativity to make this work
 - Would need to be a high distinction of what people could vote on or could not
 - Special ballots
 - Color coding
 - Very clear labeling
 - Updated voter registration process (Oregon has done this for pre-registration of 16 and 17 year olds; best case: remove citizenship question to the extent possible. Online voter reg is being modernized, so maybe there's room to remove the citizenship question if someone's address indicates they're in Multnomah County)
 - Work, willingness from MultCo clerk, SOS helping
 - Some lead up time for implementation (1 year) will support messaging out to community what needs to happen and designing things - so consider building in that space
- Love that this conversation is happening at the MultCo County Charter process - a good setting for it to be successful
- We think this is possible
 - Drivers license campaign is proof that expanding access is possible
 - Expanding access is priceless
 - Legally, home rule jurisdictions have the authority to say who can vote in their elections
 - May need to add voting to the sanctuary law protecting where we give information to federal government
- City of Portland Charter Review Process
 - Yasmin and Robin are points on this policy consideration
- Other jurisdictions that have done this and our state, country, and other states have allowed non-citizen voting in the past. Some history:
 - As of December 2021, fourteen local jurisdictions allow non-citizen voting, namely New York City, Winooski and Montpelier in Vermont, San Francisco (school board only), and eleven in Maryland near Washington, D.C.
 - Additionally, the U.S. territories of American Samoa and the Northern Mariana Islands allow non-citizen US nationals to vote
 - Historically, over 40 states or territories, including colonies before the Declaration of Independence, have at some time given at least some aliens voting rights in some or all elections. For example, in 1875, the Supreme Court in *Minor v. Happersett* noted that "citizenship has not in all cases been made a condition

precedent to the enjoyment of the right of suffrage. Thus, in Missouri, persons of foreign birth, who have declared their intention to become citizens of the United States, may under certain circumstances vote."

- By 1900, nearly half of the states and territories had some experience with voting by noncitizens, and for some the experience lasted more than half a century. At the turn of the twentieth century, anti-immigration feeling ran high, and Alabama stopped allowing aliens to vote by way of a constitutional change in 1901; Colorado followed suit in 1902, Wisconsin in 1908, and **Oregon in 1914**.
- Just as the nationalism unleashed by the War of 1812 helped to reverse the alien suffrage policies inherited from the late eighteenth century, World War I caused a sweeping retreat from the progressive noncitizen suffrage policies of the late nineteenth century. In 1918, Kansas, Nebraska, and South Dakota all changed their constitutions to purge noncitizen suffrage, and Texas ended the practice of noncitizen voting in primary elections by statute. Indiana and Texas joined the trend in 1921, followed by Mississippi in 1924 and, finally, Arkansas in 1926. In 1931, political scientist Leon Aylsworth noted that "[f]or the first time in over a hundred years, a national election was held in 1928 in which no [noncitizen] in any state had the right to cast a vote for a candidate for any office – national, state, or local."